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ABSTRACT

The primary local funding source for school support has always been the property or "ad valorum" tax. State funds, determined for each district by the "foundation program" formula, supplement this tax. Local school boards, state legislatures, state constitutions, and the voters have the power to provide quality education. In many states, however, the power which might result from increased educational expenditures has been limited. This is especially true for the poor Mexican American population. In Serrano vs Priest, the plaintiffs contend that the dependence on local property taxes for education results in wide revenue disparities among school districts. Rodriguez vs San Antonio Independent School District argues that the state minimum foundation program and general fund contribution do not equalize the great disparity in taxable property among school districts. In these cases the courts did not reject the property tax but did reject the reliance on it for local funding. The direct effects of these cases on Mexican American education are that they have: (1) served notice that Chicanos will not continue to tolerate discriminatory laws or practices, (2) aroused interest among Chicano law students, and (3) focused on the serious need for increased resources for quality education for everyone. (NQ)

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IMPLICATIONS OF THE SERRANO AND RODRIGUEZ CASES ON THE EDUCATION OF MEXICAN AMERICANS

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Prepared for a Leadership Institute for
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Objective analysis of court decisions relative to the financing of public schools requires a review of historical antecedents and general principles that have directly influenced education in the United States. Although we in this audience are acutely aware of the serious inequities and tragic failures of American education, we must also agree that considerable attention has always been given to the need for an informed and literate populace. Only twenty-seven years after the landing of the Pilgrims, a law in the colony of Massachusetts in 1647 required that every town having fifty families must appoint a teacher of reading and writing, and that each community was to determine how the teacher should be paid. Schools developed sporadically throughout the colonies, some for paupers, others for the elite, still others sponsored by religious groups. After the Revolution the expanding economy gave further impetus to the need for people with skills that formal education could provide.

Since the Constitution made no mention of education, there is no legal basis for a national system and all power for this purpose has been vested on the states. Each of the constitutions of the fifty states includes the obligation of the state to support education. This obligation, however, during the early nineteenth century simply consisted of legislation permitting towns to develop schools and to tax themselves to support these schools. By the 1850's the more progressive states required the establishment of elementary schools. Within a few years, in 1872, the Michigan Supreme Court ruled that communities could tax themselves to offer educational opportunities at the high school level.

This provided the legal basis for other states to also begin the support of secondary education with public funds.

Local communities organized school districts with the approval of the state and these were given power to tax property for educational purposes. One should not get the impression that there was no resistance to public financial support of education. The fight for the right of a community to tax one person to educate the children of another was long and arduous, but by 1872 it had been legally established.

The concepts of free, cumpulsory, and universal education were recognized as being indispensable aspects of a democratic society and school districts rapidly developed throughout the country. In 1931 there were about 130,000 school districts, all with broad powers granted by the state to provide for the education of the people residing within their boundaries. Many of these, in rural areas, had one school and some employed only one or two teachers. Others included only two or three schools. Exorbitant operating costs, inability to attract competent teachers, or to provide specialized staff resulted in consolidation efforts which reduced these by 1961 to 37,000. Today we have half that number, about 18,000 school districts in the country, each operating under a school board.

The primary source of local funds for the support of schools has always been the property or ad valorum tax. This tax is supplemented by state funds determined for each school district by a formula generally known as the "foundation program." State funds generally are derived from the sales tax, motor vehicle license fees, corporation licenses, alcoholic beverage sales license, income tax, death tax, gift tax, and severance tax. Although some of these taxes are designated for special purposes in certain states, they are a part of the general fund which the state uses to provide the services needed by its residents.

THE POWER STRUCTURE & EDUCATIONAL NEEDS -

This brief summary attempts to show that the power to provide quality education rests with the people of each state: local school boards, state legislatures, state constitutions, and the voters. In many states numerous devious means have been used to limit power that may result in increased expenditures for educational purposes. In California, legislative districts have been gerrymandered in such a way that Chicanos have been seriously lacking in representation in the Assembly and the Senate. Until this last election, with a population of over three million in the state, we had only two assemblymen. This has now been increased to five. Most state legislatures have put a ceiling on the tax rate that can be levied, thus depriving, or making it difficult, for the local community to determine the level of expenditures for education. In many states, school bonds for construction require a two thirds majority, which is exceedingly difficult to obtain.

Texas, until very recently, made no provisions for financial support of kindergartens and New Mexico has yet to do so. This in spite of all the literature on Froebel, Rousseau, and Montessori, and all the more recent pronouncements on the importance of early childhood educational programs.

State legislatures have permitted gerrymandering of school districts and the establishment of dual school districts, thereby preventing equal educational opportunity and holding expenditures at a minimum for the benefit of vested interests.

It has not been too many years ago that the state of Texas used the school census rather than average daily attendance to apportion state resources. A house to house count of all school age children was made annually and funds to school districts were distributed accordingly. It is not necessary to tell you whose children were working in the fields and who benefitted from this insidious system.

Ralph Nader, speaking before the Select Committee on Equal Educational Opportunities of the U.S. Senate, pointed to serious inequities in property tax assessments. In Gary, Indiana, United States Steel Corporation has what is perhaps the largest steel plant in the world. Under Indiana law, industries present their own assessment to the local tax assessor who is supposed to check it, but U.S. Steel withholds any information by which its assessment can be checked. This powerful corporation decides the amount of taxes it will pay, placing on the homeowners and the small property owners tax burdens that have mounted almost to the breaking point.

Law students at the University of Texas made a study of oil and gas properties in Ector County and found that producing properties were undervalued by about 56 percent, and that non-producing property which Texaco had leased for $460,500 was not even on the assessment rolls. Homes, however, were assessed at close to the market value.

California has granted favored treatment to some of the largest and wealthiest land owners in the country. The J.G. Boswell Co., for example, realizes a property tax subsidy from other tax payers of $300,000 annually on its 65,000 acres. This same company in 1970 received the largest federal farm subsidy in the nation, amounting to four million dollars. Numerous other examples can be found of favoritism and gross inequities which ultimately are detrimental to the small tax payers and directly affect the resources available to school districts. Suffice it to say here that these inequities are created in many instances by our economic, political, legal, and educational institutions.

THE SERRANO V. PRIEST CASE -

Let us turn now to the Serrano v. Priest and the Rodriguez cases. The plaintiffs in Serrano contended that the system of financing public schools in California violates the 14th amendment of the U.S. Constitution. The substantial

dependence on local property taxes for education results in wide disparaties in revenues among school districts. The California Supreme Court determined that this funding scheme discriminates against the poor because it makes the quality of a child's education a function of the wealth of his parents and his neighbors.

Despite equalization aid provided by the foundation program in California, the range of assessed valuations per pupil for 1969-70 went from $103 to $952,156 at the elementary level with per pupil expenditures of $407 to a high of $2,586. Unified school districts spent from $612 up to $2,414 per pupil. In Baldwin Park Unified School District in Los Angeles County, where Johnny Serrano goes to school, the assessed valuation per child is only $3,706, while in Beverly Hills it is $50,885. The people of Baldwin Park with a tax of $5.38 per $100, a very high tax rate, were able to spend only $577.49 to educate their children, while Beverly Hills with only a $2.38 tax rate was able to spend $1,231.72 for each pupil.

The plaintiffs contended that the present financial scheme fails to provide children of substantially equal age, aptitude, motivation, and ability with substantially equal educational resources and perpetuates serious differences in the quality of educational services. In addition, the complaint pointed out that a disproportionate number of black and Spanish surnamed children reside in school districts which offer inferior educational opportunity.

THE RODRIGUEZ CASE -

Four months after the California Supreme Court decision was rendered a federal court in Texas was considering a similar case, the Rodriguez v. San Antonio Independent School District case. The action was made on behalf of Mexican American school children and their parents residing in the Edgewood Independent School District and on behalf of all other children throughout

Texas who live in school districts with low property valuations. The plaintiffs argued that the state minimum foundation program and general fund contribution does not equalize the great disparity in taxable property among school districts. In Edgewood the market value of property per student is $5,429, compared to $45,095 in Alamo Heights a few miles away. A high tax rate in Edgewood produces only $21.00 for each pupil, while a low tax in Alamo Heights provides $307 per pupil.

It should be clearly understood that the plaintiffs were not advocating that the same amount of money be spent for educating each child. They urged the application of the principle of "fiscal neutrality." This requires that the quality of public education may not be a function of wealth, other than the wealth of the state as a whole.

A ludicrous argument made by the defendants was that what the plaintiffs were seeking was "socialized education." The Court curtly pointed out that education, like the postal service, has been socialized or publicly financed and administered almost from its origin. The issue was not whether we should have socialized education, but the type of socialized education that will prevail.

Also of interest here is the argument of the defendants that federal funds are provided for districts with a disproportionate number of low income families. The Court noted that in effect they were attempting to justify discrimination by the State, since federal funds are available to minimize its effects. The Court also pointed out that the federal funds referred to were intended to meet special needs of disadvantaged schools and should not be used to substitute for state support.

The Court ruled that the current system of financing public education in Texas discriminates on the basis of wealth by permitting citizens of affluent districts to provide a higher quality education for their children, while paying

lower taxes. The plaintiffs had thereby been denied equal protection of the law under the 14th amendment of the U.S. Constitution.

THE MEANING OF THE COURT DECISIONS -

Now, what do these court decisions mean? Since the present system of financing schools in California was declared to be unconstitutional, can we stop paying taxes there? Unfortunately, no. What about Texas, what happens here? The Texas legislature and its State Board of Education were given until December 1973 to reallocate school funds and to restructure the taxing and financing system in a way that will not discriminate against children living in low assessment districts.

Both cases have attracted attention throughout the Country, since school revenue is derived in much the same manner, from local property taxes and state funds. The courts, we must recognize, did not reject the use of the property tax to raise funds for schools. The issue was the reliance upon local funding. Tax experts and attorneys believe that most state legislatures will adopt a statewide property tax which will be uniform in rate and coverage. It could be collected at the local or at the state level.

IMPLICATIONS FOR MEXICAN AMERICANS -

The fact that favorable decisions have been made in two important federal cases where plaintiffs had Spanish surnames does not mean that school districts with heavy Chicano populations will receive a windfall in state funds. The cases were only indirectly concerned with family income or ethnicity. Federal courts cannot order the state of Texas nor the state of California to spend more money on education, much less to allocate additional resources for the education of Chicanos. All they can do is declare whether a particular law is discriminatory, and this they have done.

Evidence I have presented does not indicate that we can expect any new finance system to result in significant increases of resources except perhaps in school districts with an exceedingly low tax base. What is of major importance, in my opinion, is that Mexican Americans have served notice that we will not continue to tolerate discriminatory laws or discriminatory practices. More and more, our leaders--educators, attorneys, scholars--are attaining national visibility, prominence, and recognition. Dr. Jose Cardenas, the Superintendent of the Edgewood School District, has been the key figure in a number of federal cases here in Texas and has provided invaluable leadership in obtaining equality of educational opportunity for our people.

One has but to open any document on court decisions or Congressional Hearings related to equal educational opportunity to find his testimony. Dr. Tomas Arciniega from UTEP, Dr. David Sanchez, member of the Board of Education in San Francisco, Josue Gonzalez of San Antonio, and of course Armando Rodriguez, Assistant Commissioner of Education, have all been at the forefront articulating the needs of our people and insisting on significant institutional change.

Another direct effect on Chicanos of these and other law cases such as the Cisneros v. San Antonio Independent School District, the San Felipe v. Del Rio Case is the interest they have aroused among Chicano law students. Cases dealing with desegregation, testing, placement of students in classes for the mentally retarded are causing them to become more interested in school organization, philosophy, and educational practice. Two such students in one of my graduate classes, Sylvia Diaz and Roman Gallegos, are interrupting their law studies for an entire year to become better informed about schools.

The research of Dr. Alfredo Castaneda and Dr. Manuel Ramirez at the University of California, Riverside, and the programs undertaken at the University of New Mexico by Dr. John Aragon on cultural awareness have all had an impact on

the education of Chicanos. The research and programs undertaken by these and many others are vital to the development of testimony and court cases. It is also important to recognize the critical role of Anglos, particularly attorneys such as Dr. John Coon of the University of California, Berkeley, and Dr. Mark Yudof of the University of Texas at Austin. These men and many others have dedicated themselves to fight for equal opportunity.

ADDITIONAL RESOURCES NEEDED -

In bringing to the attention of the courts the great disparity of revenue among school districts, these cases have also focussed on the serious need for increased resources if we are to provide quality education. Crowded schools, large classes, underpaid teachers, insufficient specialists, and limited instructional materials do not facilitate diagnostic-prescriptive teaching and individualization of instruction.

The accelerated shifting of the Chicano population from rural to urban communities, coupled with the abject poverty resulting from racist practices and lack of marketable skills, have placed the schools in a dilemma that requires adequate financial resources for bold and imaginative programs and the employment and retention of outstanding teachers and administrators. In my frequest visits in classrooms around the country I see 30 to 40 children, sitting in rows, all with the same book, turned to the same page, with the teacher at the front of the room directing the lesson for the day. After the primary grades, most teachers with large classes feel they cannot maintain classroom control without resorting to this method of instruction.

It is of minor consequence for teacher training institutions or district staff development programs to promote innovative strategies, if differentiated staffing with a master teacher and aides, plus materials at a variety of reading

levels, are not also provided.

NO PANACEA IN EDUCATION -

Success in these cases will not be the panacea for the education of Mexican Americans any more than bilingual-bicultural education nor any other singular thrust can be. The educational problems we face are closely related to complex social, economic, and political realities--all of which must be challenged to be more responsive to the needs of la raza. Our people are gaining confidence and sophistication in dealing with these problems. We are refusing to be considered second class citizens and demanding that Mexican American children be given a first class education. We are rapidly regaining pride in our cultural heritage and rejecting the notion that our low socioeconomic status is due to our inherent deficiencies or our inability to understand the behavior patterns demanded by the dominant culture.

It was here in El Paso a few years ago that, while visiting an adult education class, a young man told me, "Tenemos que admitir que los Americanos son mas inteligentes que nosotros porque mire todo lo que ellos han realizado." I submit that this kind of thinking demonstrates not only a lack of awareness of historical and contemporary practices, but that it is also detrimental to the development of a positive self-image. Understand that I am not advocating the teaching of hatred of Anglo Americans. I am insisting that insidious policies and practices, both historical and contemporary, which have been damaging to people of Mexican descent residing in the United States be exposed and that we remain constantly alert to protect our civil rights.

We will not be respected unless we respect ourselves. As teachers and administrators we must insist on high standards from our students and constantly guide them in raising their level of aspiration. We must place them in situa-

tions where they will develop critical thinking and acquire the skills, values, attitudes, and understandings they need. Finally, all of us must work together--students, teachers, administrators, and parents--to promote vitally needed educational programs that will offer every opportunity for our children to develop to their highest potential. Only then can we say that we are living in a democratic society concerned with the welfare of all of its people, and that it provides equality fo education opportunity for all.

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